



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

### SOUTH CENTRAL REGIONAL OFFICE

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L. Preston Bryant, Jr.  
Secretary of Natural Resources

David K. Paylor  
Director

Thomas L. Henderson  
Regional Director

## STATE WATER CONTROL BOARD

### ENFORCEMENT ACTION

### CONSENT SPECIAL ORDER

#### ISSUED TO

**Town of South Boston**

#### **SECTION A: Purpose**

This is an Consent Special Order issued under the authority of Va. Code §§ 10.1-1185 and 62.1-44.15(8a) and (8d), between the State Water Control Board and the Town of South Boston for the purpose of for the purpose of resolving certain violations of environmental law and regulations.

#### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Water Control Board, a permanent citizen board of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Facility" means the Town of South Boston's Wastewater Treatment Plant.

6. "Order" means this document, also known as a Consent Special Order.
7. "Town" or "South Boston" means the Town of South Boston located in Halifax County, Virginia.
8. "SCRO" means the South Central Regional Office of the DEQ, located in Lynchburg, Virginia.
9. "VPDES" means the Virginia Pollutant Discharge Elimination System.
10. "Permit" means VPDES Permit number VA0020362; re-issued to the Town on June 6, 2004, which expires on June 5, 2009.

#### **SECTION C: Findings of Fact and Conclusions of Law**

1. Over the last three years, the facility has developed a history of chronic permit limit violations, unauthorized discharges to state waters, as well as improper Operation and Maintenance (O & M) deficiencies documented during regularly scheduled inspections.
2. Based on the discharge monitoring reports ("DMRs") submitted by the Town, the Department issued Notice of Violation ("NOV") number W2005-11-L-0005 on November 18, 2005, for an overflow and O & M deficiencies; NOV number W2005-12-L-0001 on December 15, 2005, for an unauthorized discharge reaching state waters; NOV number W2006-04-L-0002 on April 10, 2006, for reporting deficiencies; Warning Letter ("WL") number W2006-05-L-1008 on May 10, 2006, for a chlorine limit and reporting violations; WL number W2006-06-L-1005 on June 12, 2006, for an unauthorized discharge to state waters; NOV number W2006-08-L-0002 on August 3, 2006, for a chlorine limit violation; WL number W2006-11-L-1007 on December 1, 2006, for a chlorine limit violation; WL number W2007-01-L-1003 on January 8, 2007, for pH and chlorine violations; WL number W2007-02-L-1003 on February 5, 2007, for a chlorine limit violation; NOV number W2007-03-L-0001 on March 6, 2007, for an unauthorized discharge reaching state waters, a TSS limit violation, and reporting deficiencies; NOV W2007-04-L-0002 on April 6, 2007, for a pH limit violation and late/incomplete reports; and NOV W2007-05-L-0007 on May 22, 2007, for a chlorine limit violation.

3. Va. Code § 62.1-44.5.A prohibits, *inter alia*, the discharge of “sewage, industrial wastes, other wastes, or any noxious or deleterious substances” to State waters except in compliance with a permit issued by the Board.
4. Va. Code § 62.1-44.3 defines state waters as “all water, on the surface or under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands.”
5. The Town entered into a Special Order by Consent, effective June 17, 2004 to address the I & I issues by rehabilitation of problem areas of the collection system. The frequency and duration of unauthorized discharges have been reduced since the rehabilitation projects were completed in 2005.
6. This Order places the demonstration of due diligence on the Town by requiring the submission of supplemental operating data with each monthly Discharge Monitoring Report (DMR), as well as a progress report outlining oversight of Facility Operations and Maintenance activities. Photo-documentation of major unit processes within the Facility will be required, and will provide an up-to-date representation of current conditions.
7. The Town is currently in the process of forming a regional Public Service Authority (PSA) to combine the service areas of the Town of South Boston with both the Town and County of Halifax. Reportedly, this will result in a more efficient operating framework for all localities involved.

**SECTION D: Agreement and Order**

Accordingly, the Board, by virtue of the authority granted in Va. Code § 62.1-44.15(8a) and (8d), orders South Boston, and South Boston consents, to perform the actions contained in Appendix A of this Order. In addition, the Board orders South Boston, and South Boston voluntarily agrees to pay a civil charge of **\$8,200.00** within 30 days of the effective date of this Order, in settlement of the violations cited in this Order. The payment shall include South Boston’s Federal Identification Number, and shall reference that it is being made as a requirement of this Order. Payment shall be made by check, payable to the Treasurer of Virginia, delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, VA 23218

## **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of the Town of South Boston, for good cause shown by South Boston or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified by the NOVs cited herein. This Order shall not preclude the Board or the Director from taking any action authorized by law, including, but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations that occur after this Order is issued; (2) seeking subsequent remediation of the Facility as may be authorized by law; or (3) taking subsequent action to enforce the terms of this Order. Nothing herein shall affect enforcement actions by other state, local, or federal regulatory authorities, whether or not arising out of the same or similar facts.
3. For purposes of this Order and subsequent actions with respect to this Order, South Boston admits to the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. South Boston declares it has received fair and due process under the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, and the State Water Control Law, and waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
5. Failure by South Boston to comply with any of the terms of this Order shall constitute a violation of an Order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations.
6. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
7. South Boston shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by

earthquake, flood, other acts of God, war, strike, or other such occurrence. South Boston shall demonstrate that such circumstances resulting in noncompliance were beyond the control of South Boston and not due to a lack of good faith or diligence. South Boston shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to notify the Regional Director verbally within one (1) business day and in writing within five (5) business days of learning of any condition listed above, which South Boston intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

8. This Order is binding on the parties hereto, their successors in interest, designees, and assigns jointly and severally.
9. This Order shall become effective upon execution by the Director, or his designee, and South Boston.
10. This Order shall continue in effect until:
  - a. South Boston petitions the Regional Director to terminate the Order after it has completed all requirements of the Order, and the Regional Director determines that all requirements of the Order have been satisfactorily completed; or
  - b. The Director, his designee, or the Board may terminate this Order in his or its sole discretion upon 30 days written notice to South Boston.

Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve South Boston from its obligation to comply with any

statute, regulation, permit condition, other order, certificate, certification,  
standard, or requirement otherwise applicable.


11. By its signature below, South Boston consents to the issuance of this Order.

And it is so ORDERED this 15<sup>th</sup> day of October, 2007.



Thomas L. Henderson, Director  
South Central Regional Office  
Department of Environmental Quality

South Boston consents to the issuance of this Order.

Date: 8-10-07 By:   
Terry A. (Ted) Daniel, Town Manager, Town of South Boston

Commonwealth of Virginia

City/County of HALIFAX

The foregoing document was signed and acknowledged before me this 10 day

of August, 2007, by Terry A. (Ted) Daniel, Town Manager, Town of South  
Boston.

  
Notary Public

My commission expires: 2/28/09

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**APPENDIX A**  
**SCHEDULE OF COMPLIANCE**  
**THE TOWN OF SOUTH BOSTON**  
**VPDES PERMIT No. VA0020362**

**The Town of South Boston shall:**

1. Beginning on the date of its entry into the Order, South Boston shall develop and maintain a weekly operations checklist which shall cover, at a minimum, the following items of Facility O & M:

- a. An inspection of all major Facility process units; and
- b. A description of the condition of each unit, to include a description of any problem observed, the date by which the problem will be addressed, and the date on which the problem was addressed.

The weekly operations checklist shall be completed and signed by the Wastewater Superintendent; and reviewed for content and accuracy and signed by the Director of Public Works. The weekly operations checklist shall be attached to, and considered a supplement of, the monthly Discharge Monitoring Report (DMR) submission for the Town of South Boston. The submission is due on the 10<sup>th</sup> of the month, beginning the month following its entry into the Order.

2. Beginning the month following its entry into the Order, South Boston shall attach to each DMR a copy of its daily pH calibration sheet, and monthly process control bench sheet, which documents plant effluent chlorine monitoring results, as well as chlorine feed rates and adjustments. The pH calibration and bench sheet submittals shall also be considered a supplement to the monthly DMR. Incomplete calibration or bench sheets will be considered the same as a deficient DMR submission, and will accrue compliance points on the same schedule.

3. Beginning the month following its entry into the Order, South Boston shall, on a minimum frequency of once per month, provide photo-documentation on the status of all major process units present at the wastewater treatment plant listed below:

- a. The headworks of the plant, including screening and grit removal units, and the influent pump station;
- b. The primary clarifier;
- c. The aeration basin;
- d. The secondary clarifiers;
- e. The sludge handling system, including the digester and belt press;
- f. chlorine contact tanks;
- g. The dechlorination tank;
- h. The post aeration and outfall structures.

A minimum of 3 (three) photographs shall be taken of each process unit or train listed. Each photograph shall be taken from a different perspective in order to show a good representation of the condition of each unit. Each photograph shall be auto-imprinted with the date on which the photograph was taken, and be in digital format suitable for submittal via e-mail at any time prior to, but no later than the submittal deadline date of the applicable DMR.

4. Submit, in conjunction with the required DMR and supplemental reports, a monthly status report which demonstrates due diligence in the overall operation and management of the Facility.

5. Perform required TMP monitoring requirements as outlined in the Facility's VPDES permit, and submit the report of analysis to the Department prior to the reporting deadline of January 10, 2008. Failure to submit the report will constitute a violation of the permit, and will be in contravention of this Order issued by the State Water Control Board, and may subject the Town to additional enforcement action as required.

6. Submit the Town's Annual Pretreatment Report, as required by the Facility's VPDES permit, and the approved Pretreatment Program, prior to the reporting deadline of January 31, 2008. Failure to submit the report



will constitute a violation of the permit, and will be in contravention of this Order issued by the State Water Control Board, and may subject the Town to additional enforcement action as required.

7. Submit all reports and correspondence required by this Order to:

G. Marvin Booth, III  
Enforcement Specialist  
DEQ – South Central Regional Office  
7705 Timberlake Rd.  
Lynchburg, VA 24502

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